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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,913	09/05/2003	Hooshang Rezaie	584-27777 US (102.40) 8638	
7590 08/08/2006		EXAMINER		
Keith R Derrington			FELTON, AILEEN BAKER	
Simmons & De	rrington LLP		· · · · · · · · · · · · · · · · · · ·	
Frost Bank Building			ART UNIT	PAPER NUMBER
6750 West Loop South Suite 920			1755	
Bellaire, TX 77401			DATE MAILED: 08/08/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, RROM THE MAILING DATE OF THIS COMMUNICATION. Exercisions time may be exhibited used the provision of 37 CFR 1.18(a). In a overth chower, may a reply be limely field 1 fl No period for reply a specified above, the maximum statutory period will apply and will espire SIX (s) MONTHS from the mailing date of this communication or Failure to reply within the set of centred period for reply will, by statule, cause the application to become ARAMODEO (36 U.S. C. § 133). Any reply received by the Office later than friend months after the mailing date of this communication, even if timely fleet, may reduce any search pathern than adjustment. Set 37 CFR 1.76(b). Status 1) Responsive to communication(s) filed on 30 May 2006. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-32 is/are pending in the application. 4a) Of the above claim(s) 14-30 is/are withdrawn from consideration. 5) Claim(s) is/are allowed. Claim(s) 1-13 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) cocepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 3) Certified co						
## Examiner Art Unix Ailean B. Felton 1755 ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. ## TO PROVE THE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. ## TO PROVE THE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. ## TO PROVE THE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER FROM THE MAILING DATE OF THIS COMMUNICATION. ## TO PROVIDE THE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS SET TO EXPIRE 3 MONTH(S) THE STATUTORY PERIOD FOR THE ST		Application No.	Applicant(s)			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Takes of SIX (5) MONTHS from the mailing date of this communication If No period reply is specific above, the maximum statutory period was page and will expire SIX (6) MONTHS from the mailing date of this communication If NO period reply is specific above, the maximum statutory period was page and will expire SIX (6) MONTHS from the mailing date of this communication Any reply replacement of the communication and the period was page and will expire SIX (6) MONTHS from the mailing date of this communication Any reply replacement of the communication is provided by the Office seator from the mailing date of the communication to experiment the majorithment. Sea 37 CFR 1.70(b). Status 1) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-30 is/are pending in the application 4a) Of the above claim(s) 14-30 is/are withdrawn from consideration 4a) Of the above claim(s) 14-30 is/are withdrawn from consideration 5) Claim(s) is/are allowed 6) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner 7 Priority under 35 U.S.C. § 119 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner Application provided the provided provided by the Examiner Application provided the provided provided by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 13) Certified copies of t	The MAN INC DATE of the second of					
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2a) ☐ This action is FINAL. 2b) ☑ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☑ Claim(s) 1-30 is/are pending in the application. 4a) Of the above claim(s) 14-30 is/are withdrawn from consideration. 5) ☐ Claim(s) 1-12 is/are rejected. 7) ☐ Claim(s) 1-12 is/are rejected. 7) ☐ Claim(s) 1-13 is/are objected to. 8) ☐ Claim(s) 1-13 is/are objected to. 8) ☐ Claim(s) 1-10 is/are objected to. 8) ☐ Claim(s) 1-10 is/are objected to. 8) ☐ Claim(s) 1-10 is/are objected to by the Examiner. 10) ☐ The specification is objected to by the Examiner. 10) ☐ The drawing(s) filed on 1 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 3) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☑ Notice of References Cited (PTO-892) 2) ☐ Notice of Dratsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152) 6) ☐ Other:	Status					
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12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) ☐ Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date	The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form P1O-152.			
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Office Action Summary

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DETAILED ACTION

Election/Restrictions

- 1. Applicant's election without traverse of Group I in the reply filed on 5/30/2006 is acknowledged.
- 2. Claims 14-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/30/2006.

Claim Rejections - 35 USC § 112

- 3. The following is a quotation of the first paragraph of 35 U.S.C. 112:
 - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
- 4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 5. Claims 8 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims and the specification both describe two explosives, one of Class I and one of Class V. One of skill in the art would not know which explosives this language encompasses nor would they know how to practice the invention as described.

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6. Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is indefinite what is meant by Class I and V explosives.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 8. Claims 1, 3, and 5-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace, II et al (5,468,313).

Wallace, II et al teaches an explosive for use in a shaped charge that comprises a bimodal mixture of HMX. The larger sized HMX particles have a size of 105 micron and the smallest have a size of 1.9 micron (see example 3 and Table 1). The explosives are mixed with a plasticizer, solvent, and binder.

Claim Rejections - 35 USC § 103

- 9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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10. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace, II et al (5,468,313) as applied to claims 1, 3, and 5-13 above, and further in view of Renfro et al (6,619,176).

Wallace does not suggest the claimed density.

Renfro et al teaches that explosive material such as HMX are coated or blended with binders and pressed to approximately 90 % of its theoretical maximum density into a shaped charge case.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to press the propellant taught by Wallace to a certain density since Renfro suggests that it is known to press explosives into shaped charge cases to a specific density to achieve a desired result. It is well-settled that optimizing a result effective variable is well within the expected ability of a person of ordinary skill in the subject art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980), In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1955).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen B. Felton whose telephone number is 571.272.6875. The examiner can normally be reached on Monday-Friday 6:30-4:00, except alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571.272.1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AILEEN FELTON PRIMARY EXAMINER